

Service Date: November 27, 1989

FINAL ORDER NO. 5965

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of the Application of	)	DOCKET NO. T-9394
LARRY D. KLINGER DBA BYFORD TRUCKING	)	
COMPANY, Roundup, Montana	)	
for a Certificate of Public Conven-	)	ORDER NO. 5965
ience and Necessity.	)	

The Commission, having taken evidence and being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. On April 17, 1989, Larry D. Klinger dba Byford Trucking Company, 1117 First Street West, Roundup, Montana 59072, filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing the transportation of coal, Class B, between all points and places in Fergus, Golden Valley, Musselshell, Rosebud, Petroleum, Treasure, and Yellowstone Counties, Montana.

2. In accordance with Section 69-23-321, MCA, as amended, this matter was noticed to the public May 5, 1989. That notice said in pertinent part:

If no written protests are received by May 25, 1989, a hearing may not be held and a final order may be issued in this Docket. If a protest is received, a hearing will be scheduled. Individual notice of the hearing will be given only to Protestants and Applicant.

The application included affidavits of support.

3. Protests were filed by Prince, Inc., Forsyth, Montana and Transystems, Inc., Black Eagle, Montana.

4. On July 26, 1989, Applicant restrictively amended the application limiting the transportation to that of single loads that do not exceed 25 tons in weight (excluding the weight of the vehicles). Based upon that amendment, Transystems, Inc. withdrew their protest to the docket on July 27, 1989.

5. Docket T-9394 was noticed for public hearing on September 6, 1989, with the hearing scheduled for September 26, 1989, in Billings, Montana. Prior to that hearing, parties verbally agreed to a stipulated grant of authority and the hearing was vacated.

6. On September 28, 1989, Applicant further amended his application as follows:

Class B - Coal originating from points in Musselshell County, Montana to points and places in Fergus, Golden Valley, Musselshell, Rosebud, Petroleum, Treasure and Yellowstone Counties, Montana.

LIMITATIONS: 1. Limited to the transportation of single loads that do not exceed 25 tons in weight (excluding the weight of the vehicle). 2. Restricted against the transportation to rail sites.

7. On November 22, 1989, Protestant Prince, Inc. withdrew its protest to the docket.

8. The record of this application is available for inspection at the Public Service Commission Office, 2701 Prospect Avenue, Helena, Montana 59620-2601.

#### CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Public Convenience and Necessity require a grant of the authority sought by the Applicant.

#### ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 2701 Prospect Avenue, Helena, Montana, on the 27th day of November, 1989, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. T-9394, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of LARRY D. KLINGER DBA BYFORD TRUCKING COMPANY, Roundup, Montana, for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class B - Coal originating from points in Musselshell County, Montana to points and places in Fergus, Golden Valley, Musselshell, Rosebud, Petroleum, Treasure and Yellowstone Counties, Montana.

LIMITATIONS: 1. Limited to the transportation of single loads that do not exceed 25 tons in weight (excluding the weight of the vehicle). 2. Restricted

against the transportation to rail sites.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by certified mail to the Applicant herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 27th day of November, 1989, by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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CLYDE JARVIS, Chairman

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HOWARD L. ELLIS, Vice Chairman

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JOHN B. DRISCOLL, Commissioner

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DANNY OBERG, Commissioner

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WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.